

# EXHIBIT 1

1	UNITED STATES OF AMERICA	2149	1	I N D E X	2151
2	SOUTHERN DISTRICT OF ILLINOIS		2	WITNESSES	
3	D.W.K., Jr., and parents )		3	ALL WITNESSES:	PAGE:
4	Mary and Daniel Kaleta, )		4	For Plaintiff:	
5	Plaintiffs, )		5	MARY KALETA:	
6	v. ) No. 3:14-cv-847-NJR		6	Direct Examination by Mr. Fibich	2152:22
7	Abbott Laboratories, Inc., )		7	Cross-Examination by Mr. Strain	2213:7
8	Defendant. )		8	Redirect Examination by Mr. Fibich	2269:22
9			9	Recross-Examination by Mr. Strain	2280:11
10			10		
11	TRANSCRIPT OF JURY TRIAL PROCEEDINGS		11		
12	DAY 9 - P.M. SESSION		12		
13			13		
14	BEFORE THE HONORABLE NANCY J. ROSENSTENGEL		14		
15	UNITED STATES DISTRICT JUDGE		15		
16			16		
17			17		
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2157	2159
2158	<div>2160</div> <div>1 take your medications as recommended?</div> <div>2 A. Yes, I do.</div> <div>3 Q. Has any medication ever totally controlled your</div> <div>4 seizures?</div> <div>5 A. No.</div> <div>6 Q. The jury has heard, and I think some testimony,</div> <div>7 but you take multiple combinations at different times in</div> <div>8 your life; correct?</div> <div>9 A. Correct.</div> <div>10 Q. Has there been any combination that has eliminated</div> <div>11 your seizure issues?</div> <div>12 A. No.</div> <div>13 Q. Since you are -- you are currently on Depakote; is</div> <div>14 that correct?</div> <div>15 A. Yes, I am.</div> <div>16 Q. And you take Depakote with another medication?</div> <div>17 A. Yes, I do.</div> <div>18 Q. And what is that medication?</div> <div>19 A. Tegretol and clonazepam.</div> <div>20 Q. So you have a three-drug combination now, one of</div> <div>21 which is Depakote?</div> <div>22 A. Yes.</div> <div>23 Q. And would you please describe for the jury the</div> <div>24 type of seizures that you have.</div> <div>25 A. Okay. Well, one is a small seizure where I just</div>

2165	2167
2166	<div>2168</div> <div>1 Q. Okay. And do you know why you were having that</div> <div>2 seizure activity?</div> <div>3 A. I was pregnant.</div> <div>4 Q. So you were six months pregnant with ; is</div> <div>5 that correct?</div> <div>6 A. Yes.</div> <div>7 Q. Do you recall anything that Dr. Taber told you</div> <div>8 about Depakote?</div> <div>9 A. No, I do not.</div> <div>10 Q. Do you even remember Dr. Taber?</div> <div>11 A. No, I do not.</div> <div>12 Q. If Dr. Taber were to walk through those doors,</div> <div>13 could you recognize him?</div> <div>14 A. No, I cannot.</div> <div>15 Q. Why are you still -- are you on -- well, let me</div> <div>16 ask this question: when Dr. Taber put you on Depakote,</div> <div>17 did you take Depakote through the pregnancy with ?</div> <div>18 A. Yes, I did.</div> <div>19 Q. Did you stay on Depakote from 1993 until present?</div> <div>20 A. Yes, I did.</div> <div>21 Q. Have you taken Depakote every day of your life</div> <div>22 since 1993 when Dr. Taber put you on Depakote?</div> <div>23 A. Yes, I have.</div> <div>24 Q. And you are currently on Depakote today?</div> <div>25 A. Yes, I am.</div>

<p>1 Q. Tell the jury why you are still on Depakote today.<sup>2169</sup></p> <p>2 A. Well, for one, to switch a drug from another drug,</p> <p>3 it raises seizure activity and it can be very dangerous.</p> <p>4 And another thing is, I have to take care of my son. I'm</p> <p>5 the only one that can take care of his medical needs,</p> <p>6 doing the measurements and everything he needs to be done.</p> <p>7 So, I'm the only one that can take care of him. I do not</p> <p>8 have time to go in the hospital and change my medicine.</p> <p>9 Q. Is Depakote and the combination -- well, let me</p> <p>10 ask it this way. Sorry to start over.</p> <p>11 Do you take Depakote today?</p> <p>12 A. Yes, I do.</p> <p>13 Q. What else do you take?</p> <p>14 A. I take Tegretol and clonazepam.</p> <p>15 Q. And who added the Tegretol back in?</p> <p>16 A. I believe that would be McGonagle.</p> <p>17 Q. So you were on Tegretol, you were pregnant with</p> <p>18 , had some seizures. He took you off Tegretol, put</p> <p>19 you on Depakote. Correct?</p> <p>20 A. Yes.</p> <p>21 Q. Then you come down and you are pregnant with</p> <p>22 .</p> <p>23 A. Yes.</p> <p>24 Q. And you go back on Tegretol.</p> <p>25 A. Yes.</p>	<p>2171</p>
<p>2170</p>	<p>2172</p>

2197	199
<p>1 himself, if you know. 2198</p> <p>2 A. He hates it. He hates that he has to go and cath</p> <p>3 himself. He says he wished he could be like and</p> <p>4 just go like</p> <p>5 Q. You okay?</p> <p>6 A. Yeah.</p> <p>7 Q. Let's get through it, okay?</p> <p>8 A. Okay.</p> <p>9 Q. Do you think -- I mean needs</p> <p>10 psychological care?</p> <p>11 A. Yeah, I do.</p> <p>12 Q. Can you afford that?</p> <p>13 A. No, I can't.</p> <p>14 Q. References have been made to the therapist that</p> <p>15 has come to your house, and we're going to look at some</p> <p>16 videos of that in a minute. Is the therapist still</p> <p>17 working with -- I mean, excuse me -- ?</p> <p>18 A. No. Since my husband's been unemployed, we lost</p> <p>19 's therapist. And he really needs therapy.</p> <p>20 Q. And is here with you and your husband during</p> <p>21 this trial; is that correct?</p> <p>22 A. Yes. I have to take care of him.</p> <p>23 Q. And have you noticed any problems with</p> <p>24 because he's not getting his therapy?</p> <p>25 A. Yes. His muscles are tightening and his muscles</p>	2200

	<p>1 minutes. 2211</p> <p>2 MR. STRAIN: Thank you, Your Honor.</p> <p>3 (Court recessed from 2:06 p.m. to 2:21 p.m.)</p> <p>4 (Proceedings continued at the bench, outside the</p> <p>5 hearing of the jury.)</p> <p>6 MR. STRAIN: I didn't want to do this without</p> <p>7 advising the Court. She said since her husband got</p> <p>8 unemployed, they lost his insurance. His physical</p> <p>9 therapist for 15 years, they have lost, and he really</p> <p>10 needs it and they have no way to get it. I'm entitled to</p> <p>11 ask what they have done to investigate forms of assistance</p> <p>12 to get that physical therapist back. She has those --</p> <p>13 case law -- and I have it right here, but there is case</p> <p>14 law on it that once someone opens the door like that and</p> <p>15 says because of lack of funds, they can't get a needed</p> <p>16 service, they're not -- then I'm entitled to inquire into</p> <p>17 what they have done to attempt to get public assistance.</p> <p>18 And there is public assistance.</p> <p>19 And they also said they couldn't afford</p> <p>20 counseling, so there's two different things in, you know,</p> <p>21 the record. She said one of them with tears. So, it's a</p> <p>22 very emotional thing. It's in the context of this young</p> <p>23 man needing emotional counseling because he's threatening</p> <p>24 to shoot himself and couldn't be more prejudicial for the</p> <p>25 jury thinking, unless they give him an award, he's going</p>
2210	<p>1 to be without counseling and be at risk of suicide. It's 2212</p> <p>2 very prejudicial.</p> <p>3 THE COURT: So what you want to do is what she's</p> <p>4 done to inquire?</p> <p>5 MR. STRAIN: What she's done to inquire and I</p> <p>6 don't know what she's going to say, and then we'll address</p> <p>7 that with our life care plan people if things are</p> <p>8 available to her. We have to now.</p> <p>9 MR. FIBICH: Well, Your Honor, I don't --</p> <p>10 MR. STRAIN: They're going -- then the jury's</p> <p>11 going to think if they don't give them an award, the young</p> <p>12 man's at risk. It's a terrible thing.</p> <p>13 MR. FIBICH: Your Honor, I don't think it opened</p> <p>14 the door. Basically she said her husband's unemployed.</p> <p>15 They don't have their therapist. She doesn't have the</p> <p>16 money to pay for it. The fact of the matter is, he's</p> <p>17 going to find employment. So there's no benefits. He</p> <p>18 gets into total speculation about what's out there. If he</p> <p>19 wants to ask her if -- I mean, what is it you want to ask</p> <p>20 her?</p> <p>21 MR. STRAIN: I'm going ask her what she's done to</p> <p>22 investigate different programs.</p> <p>23 THE COURT: And I think that's reasonable. As</p> <p>24 long as it doesn't go too far, you're entitled to that.</p> <p>25 MR. STRAIN: Thank you very much, Your Honor.</p>

<p>2217</p>	<p>2219</p> <p>1 program called --</p> <p>2 MR. FIBICH: Excuse me, Your Honor. I want to</p> <p>3 object to the relevancy of this, calls for speculation,</p> <p>4 violates the motion in limine, violates what Mr. Strain</p> <p>5 says we were going to talk about.</p> <p>6 MR. STRAIN: It does not.</p> <p>7 THE COURT: Objection will be overruled.</p> <p>8 Q. (BY MR. STRAIN) I'm sorry. Let me just ask: Has</p> <p>9 she talked to you about or have you looked into Illinois</p> <p>10 program called SAS, for children like or needs like</p> <p>11 that?</p> <p>12 A. There is a program called DSCC.</p> <p>13 Q. Have you looked into that?</p> <p>14 A. I have that.</p> <p>15 Q. Okay. Okay. So --</p> <p>16 A. But that's only to do with the spina bifida.</p> <p>17 Q. Okay. I don't want to get into too much detail.</p> <p>18 I don't think we need to on this because there are people</p> <p>19 who specialize in this. I don't. But you are looking</p> <p>20 into getting assistance for as you should, as he</p> <p>21 needs; right?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. Good. Now, just so you know where I'm</p> <p>24 going, Mrs. Kaleta, I am going to ask, now ask you</p> <p>25 questions about a couple of things Mr. Fibich asked you</p>
<p>2218</p> <p>1 and four years ago?</p> <p>2 A. Yeah.</p> <p>3 Q. Does that sound about right?</p> <p>4 A. (Nonverbal response.)</p> <p>5 Q. Okay. And nothing like that since?</p> <p>6 A. No. But he's still at home.</p> <p>7 Q. Okay. Now, you mentioned that you wanted</p> <p>8 counseling for and you wanted to get the therapist</p> <p>9 back, but your husband lost his insurance, his work and</p> <p>10 the insurance with it; right?</p> <p>11 A. Yes.</p> <p>12 Q. So -- and that happened in January, I think, when</p> <p>13 your husband lost his job? The first of the --</p> <p>14 A. Yes.</p> <p>15 Q. So, have you and your husband looked into what</p> <p>16 the, kind of public assistance you could get?</p> <p>17 A. We're doing it right now.</p> <p>18 Q. You're --</p> <p>19 A. We're in the process right now.</p> <p>20 Q. What public assistance are you looking into that</p> <p>21 will help ?</p> <p>22 A. It was called All Kids. I am having help through,</p> <p>23 the state social work is helping me try and get insurance</p> <p>24 on .</p> <p>25 Q. And how about, has she told you about the Illinois</p>	



	<p>1 Q. Five. Tegretol? 2267</p> <p>2 A. Yes.</p> <p>3 Q. Zarontin?</p> <p>4 A. Yes.</p> <p>5 Q. And what else, Mrs. Kaleta?</p> <p>6 A. Dilantin.</p> <p>7 Q. Dilantin?</p> <p>8 A. Phenobarbital. And I'm on clonazepam now.</p> <p>9 Q. And Depakote. Right?</p> <p>10 A. I think you already said Depakote.</p> <p>11 Q. Tegretol, Zarontin, clonazepam, Dilantin,</p> <p>12 Phenobarbital and Depakote. Weren't, weren't there</p> <p>13 others?</p> <p>14 A. No.</p> <p>15 Q. But six is a lot. So, that's six. A lot of those</p> <p>16 you tried before you settled on to Depakote in 1993;</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Your doctors were always trying to find what was</p> <p>20 the best -- nothing's going to be perfect -- what was the</p> <p>21 best for you; right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. You -- I think you went into this with Mr.</p> <p>24 Fibich. You dropped out of school in the 9th or 10th</p> <p>25 grade; right?</p>
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1 A. I do not remember. 2269  
2 Q. You started on the Depakote in 1993. And that's  
3 22 years ago. There's not a day since then you haven't  
4 been using Depakote; right?  
5 A. I am on Depakote, yes.  
6 Q. You have found it to be very important to help you  
7 lead the life you want to lead; is that correct?  
8 A. Am I somewhat controlled? Yes.  
9 Q. Well, let me just ask. And if you don't want to  
10 answer this, just tell me. I asked whether you find it to  
11 be very important to help you lead the life you want to  
12 lead. Has Depakote been very important to you to lead the  
13 life you want to lead for the last 22 years?  
14 A. I really don't know how to answer that.  
15 Q. All right. I'll withdraw the question then and I  
16 thank you very much.  
17 MR. FIBICH: Keep your seat.  
18 THE WITNESS: Pardon me?  
19 MR. FIBICH: Keep your seat. We're going to talk.  
20 THE WITNESS: Okay.  
21 REDIRECT EXAMINATION  
22 BY MR. FIBICH:  
23 Q. You and I can agree that Mr. Strain is a pretty  
24 smart fella, isn't he?  
25 A. Yes.

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REPORTER'S CERTIFICATE

2 I, Christine A. Dohack, Registered Merit Reporter  
3 and Certified Realtime Reporter in and for the United  
4 States District Court for the Southern District of  
5 Illinois, do hereby certify that I was present at and  
6 reported in machine shorthand the proceedings in the  
7 above-mentioned court; and that the foregoing transcript  
8 is a true, correct, and complete transcript of the  
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14 I further certify that this transcript contains  
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21  
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